

99  
66

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 28TH DAY OF JANUARY 1999

PRESENT

THE HON'BLE MR.JUSTICE ASHOK BHAN

AND

THE HON'BLE MR.JUSTICE K.R. PRASADA RAO

WRIT PETITION Nos:34026-34037/1998 C/W  
36550 to 36621/1998

In W.P.Nos:34026-34037/1998:

Between:

1. H.B.Shiva Kumar,  
S/o.Hanumanthaiah,  
a/a 35 years,  
Res. at Turuvanur,  
Chitradurga taluk and District.

2. P.B.Suresha,  
S/o.P.S.Basavarajappa,  
a/a 26 years,  
Res. at Doddaghatta,  
Channagiri Taluk,  
Shimoga District,  
PIN 577 544.

10  
W68

..3..

7. Viswanath H.V.  
S/o.Venkatarasaiah,  
aged about 28 years,  
Res. at:Hanchipura Village,  
M.B.Vadi Post,  
Nelamangala Taluk,  
Bangalore District:562 123.

8. Manjunatha K.  
S/o.Sheshappa K,  
aged about 29 years,  
Res. at Bandri,  
Koolahalli (Post),  
Harapanahalli Taluk,  
Davanagere District,  
PIN 583 131.

9. Smt.Suvarna.A.  
W/o.Nagaraj,  
a/a 28 years,  
Re. near Old Bus Stand,  
Harappanahalli,  
Bellary District,  
PIN 583 131.

10. Ashok Veerappa Ajjappanavar,  
a/a 30 years,  
Res.at No.158,  
7th Cross,  
Shivanandanagar,  
Mudalapalya,  
Bangalore-560 072.

70

..5..

3. The Karnataka Administrative  
Tribunal,  
Indiranagar,  
Bangalore-560 038,  
Rep. by its Registrar.

..Respondents.

(sri U.Abdul Khader, HCCP for R-1)  
(Sri T.Narayan Swamy for R-2).

The Writ Petitions are filed under Article 226 of the Constitution of India with an affidavit praying to quash vide Anx.G. dtd: 28.10.98 passed in application No.3443 to 3447/98, 4325 to 4346/98, 4453 to 4508/88 and no.6056 to 6067/98, by R-3 in so far as the petitioners are concerned, as the said order is without jurisdiction, contrary to the principles of natural justice and also contrary to section 5(2) of the Administrative Tribunals Act, 1985 and etc.,

In W.P.Nos:36550 to 621 of 1998:

6

In W.P. Nos. 36550 to 36621 / 98

BETWEEN

1. Smt. KEERTHIMALINI,  
Aged about 32 years,  
Residing at Door No.8,  
5<sup>th</sup> Cross Road,  
Anjaneya Temple Street,  
Nagasandra,  
Bangalore - 560 028
2. Ms. MOHAN KUMARI.M.R.  
D/o M.D.Rajanna,  
Aged about 25 years,  
Residing at Madhiahalli (post),  
Tiptur taluk,  
Tumkur district,  
PIN 572 202
3. Smt. VEDHAVATHY.B.M.  
Wife of Manjappa.H.D.  
Aged about 34 years,  
Residing at "Shree Nilaya",  
Vijayanagar,  
Kandali (post),  
Hassan district,  
PIN 573 217
4. Ms. D.V.BINDUKUMARI,  
Aged about 23 years,  
Residing at Mayamudi village (post),  
South Coorg - 571 213

*Ans*

7

79

5. KRISHNA N.THIRUMALAMATH,  
Aged about 28 years,  
Residing at No.1397,  
"Tirumal Nivas",  
College Road,  
Bilgi,  
Bijapur district,  
PIN 587 116
6. Kum. BHUVANESHWARI,  
D/o Suresh.I.Alageri,  
Aged about 23 years,  
Residing at Door No. 15,  
M.I.G. II Stage,  
New K.H.B. Colony,  
Sirsi,  
Uttara Kannada district
7. BALAKRISHNA R.NAYAK,  
Aged about 23 years,  
Residing near Co-operative  
Society, Hiregutty (At & post),  
Kumta taluk,  
Uttara Kannada District,  
PIN 581 333
8. H.T.JANARDHANA SWAMY,  
Son of Thirumalaiah.H.  
Aged about 37 years,  
Residing at 8<sup>th</sup> Cross,  
Gandhinagar,  
Mandy - 571 401
9. BALACHANDRA.H.T.  
Son of Thimmanna Bhat,  
Aged about 34 years,  
Residing at No.3-B-3,  
H.M.T. Quarters,  
Tumkur - 572 103
10. SHASHIKUMAR.H.R.  
Son of Ramalingappa.H.S.  
Aged about 31 years,  
Residing at Hunasaghatta (post),  
Tarkere taluk,  
Chickmagalur district,  
PIN 577 547

Ans

11. GOPAL HANNA,  
Aged about 28 years,  
Residing at Hekala House,  
Nakre Post,  
Karkala taluk,  
Dakshina Kannada district,  
PIN 576 117
  
12. KEMPARANGAIAH,  
Aged about 39 years,  
Residing at Shakunathimmanahalli,  
Kodlahalli (post),  
Koratagere taluk,  
Tumkur district,  
PIN 572 121
  
13. B.JAGADEESH CHANDRA,  
Aged about 28 years,  
Residing at C/o B.Nagappa,  
H.No.1-4-1199-351,  
I.D.S.M.I. Layout,  
Raichur - 584 101
  
14. PATTABHI RAMACHANDRA. G.S.  
Aged about 34 years,  
Residing at No.1303, E & F Block,  
Behind Jodi Basavana Temple,  
Kuvempu Nagar,  
Mysore - 570 023
  
15. SHIVALINGAPPA.B.MUGAD,  
Aged about 42 years,  
Residing at & post Avaradi,  
Bailahongal taluk,  
Belgaum district,  
PIN 591 115
  
16. UMESH.K.  
Aged about 32 years,  
Residing at H.No.4-3-74B,  
Near Fire Office,  
Ajjarakad,  
Udupi,  
Dakshina Kannada district,  
PIN 576 101

*Ans*

74

17. ANVAR BASHA.S  
Son of C.D.Silar Sab,  
Cheelanahally,  
Mathighatta (post),  
Kadur taluk,  
Chickmagalur district,  
PIN 577 548
18. Ms. K.K.PREMA,  
D/o K.P.Kuttappa,  
Aged about 30 years,  
Residing at Bittangala  
Village & post,  
Virajpet taluk,  
Kodagu district
19. Smt. SHAKUNTHALA.G.K.  
Aged about 36 years,  
Wife of Revanna.B.  
Second Division Assistant,  
Principal Munsiff Court,  
Davanagere - 577 002
20. DHANARAJ KANTEPPA BHATAMBRE,  
Son of Kanteppa Bhatambre,  
Aged about 32 years,  
Residing at Ucha,  
Morambi (post),  
Taluk Bhalki,  
District Bidar,  
PIN 585 328
21. Kum. VATSALA.R.S.  
D/o Siddalingappa.G.R.  
Aged about 24 years,  
Residing at Nadigar Street,  
Channagiri,  
Shimoga district,  
PIN 577 213
22. Kum. GAYATRI.A.  
D/o Ashwathanarayan Shetty,  
Aged about 30 years,  
Residing at Nadigar Street,  
Channagiri taluk,  
Shimoga district,  
PIN 577 213

*Ansnt*

23. Kum. SARVAMANGALA.C.N.  
D/o C.G.Ningappa,  
Aged about 32 years,  
Residing at Door No.17,  
K.H.B. Colony,  
Hosamane Extension,  
Shimoga - 577 201

24. Smt. SARASWATHAMMA.R.  
Wife of Raviraj.M.  
Aged about 33 years,  
Residing at III Cross,  
B.H.Road,  
Bhadravathi,  
Shimoga district,  
PIN 577 303

25. B.VEERESHACHAR,  
Son of Jakanachar.B.  
Aged about 30 years,  
Residing at Hallad Road,  
Huvina Hadagali,  
Bellary District,  
PIN 583 219

26. GOVINDA NAIK,  
Aged about 30 years,  
C/o the Assistant Commissioner,  
H.R. & C.E., D.C.Office Compound,  
Mangalore,  
Dakshina Kannada district,  
PIN 575 001

27. Ms.B.MEERA,  
Aged about 29 years,  
Residing at Mallaghatta,  
Somanahally (post),  
Kadur taluk,  
Chickmagalur district,  
PIN 577 138

28. PRABHAKAR MUTHALIK DESAI,  
Aged about 28 years,  
Residing at Huddar Galli,  
Near Vijaya Bank,  
Chikkodi,  
Belgaum district,  
PIN 591 201

*Ans*

76

29. S.NARAYAN,  
Aged about 37 years,  
Residing at Door No.L-3,  
Chamundeswari Temple Road,  
Gandhinagar,  
Mysore - 570 007

30. Ms.PARIMALA PARUTAPPA GOUDAR,  
Aged about 30 years,  
Residing at Hospet Galli,  
Kerur,  
Badami taluk,  
Bijapur district,  
PIN 587 206

31. Kum. HEMA,  
Aged about 25 years,  
Residing at Door No.2733,  
Temple Road,  
Vani Vilas Mohalla,  
Mysore - 570 002

32. Ms. SUJAYAMBA.T.V.  
D/o Veerabhadraiah,  
Aged about 34 years,  
Residing at No.120,  
B.H.Road,  
Behind Srivihar Hotel,  
Vinayaka K.Nagar,  
Tiptur - 572 202

33. RAGHUVIR GANPATI NAIK,  
Aged about 24 years,  
Residing at Baad (Post),  
Kumta taluk,  
Dakshina Kannada district,  
PIN 581 441

34. Smt. UMA VANITHA NAYAK,  
Aged about 32 years,  
Residing at C/o N.G.Nayak,  
Department of Physics,  
Mangalore University,  
Konaje,  
Dakshina Kannada district,  
PIN 574 199

*Revised*

35. DODDAPPA.N.S.  
Son of Shivappa,  
Aged about 25 years,  
Residing at Narasipura,  
Honnenahally (post),  
Hosadurga taluk,  
Chitradurga district,  
PIN 577 527

36. Smt. PADMASRI.K. 2  
Aged about 27 years,  
Residing at No.9-277,  
Subrayana Temple Street,  
Kollegal,  
Mysore district,  
PIN 571 440

37. Ms.M.PADMA,  
Aged about 26 years,  
Residing at Door No.4,  
M.I.G., K.H.B.,Colony,  
New Extension,  
Nanjangud,  
Mysore district,  
PIN 571 301

38. SURESH.K.S.  
Aged about 31 years,  
Son of Subba Rao.K.  
Retired Driver,  
Residing at Chickpet,  
Behind Mosque,  
Chitradurga - 577 507

39. Kum.CHETANA BANNOOTH.J.  
D/o Jay Naik,  
Aged about 24 years,  
Residing at Sri Durgamba Nilaya,  
Behind Dias Building Fort,  
Chickmagalur - 577 101,

40. Smt.LATHA.B.V.  
Wife of H.S.Nagesh,  
Aged about 29 years,  
C/o S.N.Pharma,  
10<sup>th</sup> Cross, 8<sup>th</sup> House Compound,  
K.R.Puram,  
Hassan - 573 201

PETITIONERS

*[Signature]*

41. VENKATESH PATIL,  
Aged about 29 years,  
Residing at Laxmeshwar (post),  
Shirahatti taluk,  
Dharwad district,  
PIN 582 116

42. RAJ KUMAR,  
Aged about 29 years,  
Residing at Anchipura,  
Byramangala post,  
Bidadi Hobli,  
Ramanagaram Taluk,  
Bangalore Rural District,  
PIN 562 109

43. NARAYANA GOWDA.B.  
Aged about 28 years,  
Residing at Basavalachil House,  
Mangala Padav,  
Bantwal taluk,  
Dakshina Kannada district,  
PIN 574 243

44. A.B.MOHAN KUMAR,  
Aged about 40 years,  
Residing at Arehalli (post),  
Belur taluk,  
Hassan district

45. NAGARAJA,  
Son of Annashetty,  
Aged about 36 years,  
Residing at Indiranagar,  
Seebinakere post,  
Thirthahalli taluk,  
Shimoga district,  
PIN 577 432

46. KALLAPPA N.HUGAR,  
Aged about 33 years,  
Residing at Rajanagi (post),  
Mudhol taluk,  
Bijapur district,  
PIN 587 313

*Draft*

47. KUMAR THORAPPA KAMBALE,  
Aged about 36 years,  
Residing at Kothali (post),  
Chikkodi taluk,  
Belgaum district, PIN 591 287

48. MEENAXI BHALACHANDRA RAO JOSHI,  
Aged about 34 years,  
Residing at No.1747,  
Ottari Galli,  
Chikkodi,  
Belgaum district,  
PIN 591 201

49. SUDHA.T.R.  
Aged about 29 years,  
Residing at C/o Sripathi. T.V.  
No.E-285, I Stage,  
Kuvempunagar,  
Mysore - 570 023

50. SHYLA.A.R.  
D/o Rudregowda,  
Aged about 24 years,  
Residing at Opp.Vijaya Rice Mills,  
Gendehalli Road,  
Belur - 573 115

51. SUJATA NAVALAGUNDA,  
Aged about 26 years,  
Residing behind Petrol Pump,  
Vidyanagar,  
Haveri - 581 110

52. MAMATHA.H.H.  
Aged about 26 years,  
Residing at Door No.F-52,  
J.R.P. Colony,  
Gorur,  
Hassan district,  
PIN 573 120

53. NANJUNDASWAMY.M.  
Son of Maraiah,  
Aged about 33 years,  
Residing at II Street,  
Ramasamudra Town,  
Chamarajanagar taluk,  
Mysore district

54. CHENNAKESHAVAIAH,  
Son of Dasappa,  
Aged about 32 years,  
Residing at No.456,  
Subhash Nagar,Nelamangala,  
Bangalore district, PIN 562 123

55. H.S.SHANTAMMA,  
Aged about 29 years,  
Residing at Mathodu (post),  
Hosadurga taluk,  
Chitradurga district

56. NAGALINGAPRABHU.G.  
Son of Gurumallappa,  
Aged about 27 years,  
Residing at Chikkannamanchahalli,  
Althur (post),  
Gundlupet taluk,  
PIN 571 109

57. ASUNUYA.S.G.  
Aged about 31 years,  
Residing at C/o Devaraj,  
H.No.1150/3,  
Venkatappa Building,  
T.Dasarahalli,  
Bangalore – 560 057

58. M.RAMANNA,  
Aged about 46 years,  
Library Attender,  
District Central Library,  
Nanjangud – 571 301

60

*Personal*

59. C.PRABHudeva,  
Son of late Chandrakanthaiah.K.  
Aged about 32 years,  
Residing at Nerale village (post),  
Nanjangud taluk,  
Mysore District,  
PIN 571 312

60. KUMARASWAMY.S.  
Aged about 36 years,  
Residing at Door No.1-100 F.A.  
Paper Town,  
Bhadrapathi,  
Shimoga district,  
PIN 577 302

61. SRINIVASAMURTHY.G.S.  
Aged about 31 years,  
Residing at Door No.2023/A,  
1<sup>st</sup> Main, 8<sup>th</sup> Cross,  
S.S.Puram,  
Tumkur - 572 102

62. V.RAVI,  
Son of Venkataiah,  
Aged about 32 years,  
Residing near P.L.D. Bank,  
Old M.C.Road,  
Maddur taluk,  
Mandya district,  
PIN 571 428

63. M.S.ANNAPURNA.M.R.  
Major,  
Residing at Door No.997,  
Pranathi,  
9<sup>th</sup> Main Road,  
Chikkanaranahalli,  
Mysore - 570 023

64. MANJULA.C.S.  
Aged about 34 years,  
Residing at No.12/92,  
10<sup>th</sup> Cross, 6<sup>th</sup> Main,  
II Stage,  
West of Chord Road,  
Nagapura,  
Bangalore - 560 086

81

17

PETITIONERS

Dinesh

C. PRABHUDEVA,  
Son of late Chandrakanthaiah.K.  
Aged about 32 years,  
Residing at Nerale Village (post)  
Nanjangud Taluk, Mysore District,  
PIN 571 312.

60. KUMARASWAMY.S.  
Aged about 36 years,  
Residing at Door No.1-100 F.A  
Paper Town, Bhadrabathi,  
Shimoga District, PIN 577 302

61. SRINIVASAMURTHY .G.S.  
Aged about 31 years,  
Residing at Door No. 2023/A,  
1st Main, 8th Cross, S.S.Puram,  
Tumkur - 572 102.

62. V.RAVI  
Son of Venkataiah,  
Aged about 32 years,  
Residing near P.L.D. BANK,  
OLD M.C.Road, Maddur Taluk,  
Mandya District, PIN 571 428.

63. M.S. ANNAPURNA.M.R.  
Major,  
Residing at Door No. 997,  
Pranathi, 9th Main Road,  
Chikkanaranahalli, Mysore - 570 023

64. MANJULA.C.S.  
Aged about 34 years,  
Residing at No. 12/92,  
10th Cross, 6th Main,  
II Stage, West of Chord Road  
Nagapura, Bangalore - 560 086

65. A.F.KITTUR  
Aged about 26 years  
Khazigalli,  
Haliyal  
Karwar - Dt. 581329. ....Petitioners.

*Perpet*

(SRI K. Subba Rao, Adv. for petitioners)

66. LAXMIBHAI MARUTHI KORWAR  
Aged about 31 years,  
Residing at Bajentri Galli,  
Church Road, Halliyal - 581 329.

67. SHAKUNTHALA . H. CHITAPATHI.  
Aged about 25 years  
Residing at Kesoralli,  
Halliyal - Taluk,  
Karwar District, PIN 581 329.

68. MEEYASABI  
Aged about 28 years  
S/o Gudusab  
Residing at Hirekabbigere,  
Basavanasivanakere post,  
Chitradurga Taluk, PIN 577 541.

69. HAMPESH S.M.  
Aged about 27 years  
S/o. S.M.Doddabasaiah  
Residing at Kampli Fort (post),  
Hospet Taluk, Bellary District - 583 132.

70. M.MUNIYAPPA  
Aged about 35 years  
Residing at M.Medihalli,  
Mayasandra post, Anekal Taluk,  
Attibele 562 107, Bangalore District.

71. K.N. PRAHLAD  
Aged about 30 years  
S/o. Naganna  
Residing at Kyadigunte Village,  
Siddeswaranadurga post,  
Challakere Taluk,  
Chitradurga District.

72. H.D.LOKESH  
Aged about 27 years  
S/o. Jayamma,  
Residing at Hethanahalli,  
Gulur Post and Hobli,  
Tumkur Taluk & District,  
PIN 572 118

PETITIONERS

(By Sri. *[Signature]*  
K. Subba Rao Adv.)

10

..19..

And:

1. The State of Karnataka,  
rep. by the Secretary,  
to Government,  
Department of Personnel &  
Administrative Reforms,  
Vidhana Soudha,  
Bangalore-560 001.

2. The Karnataka Public Service,  
Commission,  
Rep. by its Secretary,  
Park House,  
Bangalore-560 001.

3. The Karnataka Administrative  
Tribunal,  
Indiranagar,  
Bangalore-560 038,  
Rep. by its Registrar.

..Respondents.

(Sri U.Abdul Khader, HCGA for R-1)

(Sri T.Narayana Swamy for R-2).

These Writ Petitions are filed under Article 226 of the Constitution of India with an affidavit praying to quash the orders of the KAT dated 29-10-98 vide Annex.A, Annex.B, dtd:17.11.98, and Annex.C, dt:30-10-98 in so far as the petitioners are concerned and etc.,

66

Writ Petition Nos.34026-34037/1998 C/W.36550 to  
36621/1998

ABJ & KRPRJ.

ORDER

28-1-1999

The petitioners in all these writ petitions appeared for the competitive examination held by the Karnataka Public Service Commission ( for short ' the KPSC') after applying for the Post of First Division Assistant in pursuance of the notification bearing No.E(2) 38/PSC/96-97 dated 3.10.1996 vide Annexure-A and after evaluation of the answer scripts a provisional select list was published by KPSC on 2.5.1998 showing the names of all these petitioners as the candidates selected, a copy of which is Annexure-B. While publishing the said provisional list dated 2-5-1998, the KPSC had invited the objections from the candidates who appeared for the examination for the said post. Thereafter certain objections were received, wherein doubts were raised about possible error in computer programming. After detailed verification of those objections and in consultation with the experts in that context, it was found that there was an error in randomisation of series

57

in the computer programming. In the said circumstances, the 2nd respondent - KPSC. decided to withdraw the provisional select list/marks list published on 2.5.98 in its notification No.E(2) 19/98-99/PSC dated 8-6-98, copy of which is Annexure-C. It was also stated in the said notification dated 8.6.98 that the revised marks list published did not include the Rural Weightage and that the awarding of marks in respect of the Rural Weightage would be considered after obtaining the necessary documents from the eligible candidates and that a revised provisional select list would be published in due course after verification of all the valid documents from the eligible candidates.. All these petitioners have now challenged the said notification dated 8-6-98 issued by the KPSC., cancelling the provisional select list published on 2-5-1998 by approaching the Karnataka Administrative Tribunal (for short 'the Tribunal') at Bangalore by filing application Nos.4325 to 4346/1998 and connected applications. The said applications were dismissed by the Tribunal after considering the merits of the various contentions raised by the petitioners by orders dated 29.10.98, 17.11.98 and 30-10-98 observing that there is no irregularity and illegality in the action of the Commission in withdrawing

the provisional list and publishing the revised list. The petitioners have, therefore, approached this Court praying for quashing of the said orders of the Tribunal dated 29-10-1998 passed in Applications Nos.3443 to 3447/98, 4325/98, 4453 to 4508 of 98 and 6056 to 6067/98 and for quashing of the impugned notification bearing No.E2/19/98-99/PSC dated 8-6-98, copy of which is Annexure-C, by issue of a writ of certiorari and for giving a direction to KPSC to finalise the provisional select list dated 2.5.1998 subject to corrections of clerical error, if any, and appoint the Petitioners as First Division Assistants by issue of a writ of mandamus.

2. Respondent No.2 filed their objection statement, inter alia, contending that after evaluation, a provisional select list was published on 2-5-98 inviting objections to that list. Several objections were raised indicating in essence that the Computer Programming may be faulty. In such circumstances, on manual verification of the answer sheets of the objectors and in consultation with the Experts in that context it was found that there was an error in randomisation of series in the computer programming

59

In these circumstances, after going through these aspects and after calling Mr.K.Hari Anand, Director of M/s. T.R.R.Software Private Limited at Bangalore, an expert in the concerned field and after going through the report rendered by him and also after hearing him about the discrepancy/mistake in the randomisation of the series, the Commission decided to get the proper evaluation of all the series done. In pursuance of such a decision taken by the Commission, fresh evaluation of all the series were effected and the Commission in its notification dated 8-6-98 in No.E(2)19/98-99/PSC, published the revised marks list of all the candidates who had appeared in the examination, by withdrawing the Provisional Select List/Marks List published on 2-5-1998. It is also contended by them that the provisional select list/marks list published on 2-5-98 was withdrawn by the Commission since the said list never reflected the true and correct position.

3. We have heard the detailed arguments advanced by the learned Counsel appearing for the petitioners Sri K.Subba Rao and the learned Counsel for the 2nd respondent Sri T.Narayanaswamy.

4. The learned Counsel for the petitioners has challenged the impugned order<sup>s</sup> passed by the Tribunal and the validity of the notification issued by the 2nd respondent dated 8-6-98 mainly on three grounds which are as follows:-

- 1) Before quashing the provisional select list published on 2-5-1998 the 2nd respondent ought to have given notices to all the petitioners who were selected in the said list. As no such notices have been given to the petitioners the said notification dated 8-6-98 cancelling the provisional select list dated 2-5-98 published, is liable to be quashed and this aspect of the matter has not been considered by the Tribunal.
- 2) The Tribunal failed to notice that there was no conscious application of mind by the 2nd respondent before cancelling the said provisional select list dated 2-5-98.
- 3) No sufficient reasons are given by the 2nd respondent for withdrawing the provisional select list and even this aspect of the matter has not been properly considered by the Tribunal.

Alternatively it is contended by the learned Counsel for the petitioners that a direction is to be given by this Court to the 2nd respondent to evaluate

(A)

all the answers afresh.

5. On perusal of the records, we find no merit in any of the above contentions urged by the learned Counsel for the petitioners. The 2nd respondent has clearly explained the circumstances under which they decided to withdraw the provisional select list/marks list published on 2-5-1998 in the notification issued in No.E(2) 19/98-99/PSC dated 8-6-98 by producing a copy of the proceedings of the Special meeting of the Commission held on 27-5-1998 at 12.30 P.M. which are following effect:

" The Commission perused the note and discussed the subject at length. The Commission also went through the randomisation chart and the master key supplied to the Senior Programmer. The Commission observed the error committed at the stage of entering proper key for B, C and D series by the Senior Programmer. The Commission expressed its anxiety over the gravity of the error. The Senior Programmer has replied to the notice issued by the Secretary. A detailed report covering all aspects be placed before the Commission during its next meeting."

92

Thus sufficient reasons are disclosed in the record of the proceedings of the special meeting of the Commission held on 27-5-1998 for taking the decision to withdraw the provisional select list published on 2-5-1998 and / get the proper evaluation of all the answer scripts by entrusting the work to Mr. Anand TRR Software. The second respondent also produced a copy of the report submitted by Sri K. Hari Anand, Director for T.R.R. Software Pvt. Ltd.. <sup>wrote</sup> Opinion was sought in this regard before taking the above decision. The observations of the said Expert given in his report are as follows:-

- " 1) There are four booklet series in the examination i.e., A, B, C and D.
- 2) The computer department staff was given the answer key for 'A' series and the randomisation chart for series B, C and D.
- 3) In the evaluation process in the computer, it is the normal, straight forward and a clean process to have four keys to the four series rather than having one key and write a program for randomisation for the other three series. The second process is more cumbersome and more error-prone because

it is more difficult to code the program as three different programs have to be coded and secondly the possibility of error occurring the feeding the randomisation chart.

In our experience with neighbouring State PSCs where we are involved in scoring and merit list generation also, we adopt four answer keys process rather than randomisation.

4. In this case also your computer department staff has adopted the same procedure. But the error has occurred in entering the answer key for B, C and D series.

The randomisation chart shows the question number of each series that carries the same answer. The question numbers are shown horizontal blocks carry the same answer.

But your computer department staff has taken 'A' series correctly as it runs from 1 to 100 serially. For the 'B' series instead of taking the same answer for the horizontal block, the Senior Programmer has taken that as the question number reference and has taken the answer for the corresponding question number from A-series itself and hence this mistake.

This is purely a mistake in understanding the concept of the randomisation chart.

The later part of the process namely report generation, I trust is all right as that suffices your requirement."

Thus, it is found from the report of the Expert that there was an error in randomisation of series in the computer programming. After going through the said report of the Expert and after personally hearing with Expert, the 2nd-respondent - KPSC decided to get the proper evaluation of all the series done and in pursuance of the said decision taken by the Commission fresh evaluation of all the series ~~was~~ effected and the Commission published the revised marks list of all the candidates, who had appeared in the examination in its notification dated 8-6-98 in No.E(2) 19/98-99/PSC by withdrawing the provisional select list/marks list published on 2-5-98. We are, therefore, unable to persuade ourselves to accept the contention of the learned Counsel for the petitioners that no sufficient reasons are given for taking the above decision by the 2nd - respondent to cancel the provisional select list published on 2-5-98 and to get the proper evaluation of all the answer scripts done by entrusting them to Mr.Anand of TRR Software and that there was no conscious application of mind before cancellation

of the provisional select list published on 2-5-1998. We are of the opinion that it would be travesty of justice to allow the said wrongly prepared provisional select list dated 2-5-98 to be given effect and to be implemented without permitting the 2nd respondent to publish the correct provisional select list after getting the answer scripts of all the series evaluated again.

6. The learned Counsel for the petitioners vehemently contended that before cancelling the provisional select list, 2nd respondent ought to have given opportunity of being heard to the petitioners and as the principles of natural justice have not been followed, the impugned notification dated 8-6-98 issued cancelling the select list dated 2-5-1998 is liable to be quashed. In support of this contention, he relied upon a decision of the Supreme Court reported in BENNY T.D. AND OTHERS vs. REGISTRAR OF CO-OPERATIVE SOCIETIES ( 1998)5 S.C.C. 269), wherein it was held that:-

" Where the Registrar of Co-operative Societies came to the conclusion that there was large-scale malpractice in recruitment made by a Co-operative

(b)

Bank and issued notice to the Bank making a bald allegation that the marks awarded and the consolidated marks recorded in the recruitment process are corrected and manipulated without giving specific details taking into account report of the Kerala Public Men's (Corruption, Investigation and Enquiries) Commission without supplying the copy to the Bank. ~~The interference of mal-practice is improperly made.~~"

But the above decision is not applicable to the facts of the present case since in the instant case fresh evaluation of all the series of answer scripts has been ordered by the 2nd respondent, only on account of the detecting of an error in randomisation of series in the computer programming and not on account of any detection of malpractices in the recruitment process. The learned Counsel for the petitioners has also relied upon another decision of the Supreme Court rendered in BOARD OF HIGH SCHOOL AND INTERMEDIATE EDUCATION U.P. Allahabad vs. GHANSHYAM DAS GUPTA and others ( AIR 1962 S.C. 1110), wherein it was held that:-

" If a statutory authority has power to do any act which will prejudicially affect the subject, then, although there are two parties apart from the authority and the contest is between the authority

proposing to do the act and the subject opposing it, the final determination of the authority will yet be a quasi-judicial act provided the authority is required by the Statute to act judicially....

The Examinations Committee of the Board of High School and Intermediate Education, U.P., appointed under S.13 of the U.P. Intermediate Education Act 2 of 1921, when it exercises its powers under R.1(1) of Chapter VI of the Regulations framed under S.15, in dealing with cases of examinees using unfair means in examination halls, is acting quasi-judicially and the principles of natural justice which require that the other party (namely, the examinee) must be heard, will apply to the proceedings before the Committee. Though there is nothing express one way or the other in the Act or the Regulations casting a duty on the Committee to act judicially, the manner of the disposal based as it must be on materials placed before it, and the serious effects of the decision of the Committee on the examinee concerned, must lead to the conclusion that a duty is cast on the Committee to act judicially in that matter, particularly as it has to decide objectively certain facts which may seriously affect the rights and careers of examinees, before it can take any action in the exercise of its power under R.1(1)...

Where no opportunity whatever was given to the examinees to give an explanation and

present their case before the Committee, the resolution of the Committee cancelling their results and debarring them from appearing at the next examination is initiated."

We find that the principles of natural justice laid down in the above decision are not applicable to the facts of the present case, since in the instant case, it was found that there was no proper evaluation of answer scripts pertaining to B, C and D series due to the mistake committed by the Staff of the Computer Department which resulted in not properly ~~effecting~~ <sup>causing</sup> the correct answers in respect of B, C and D series which resulted in error in randomisation of series. So, the question of giving opportunity to the petitioners, whose names appeared in the wrongly prepared provisional select list dated 2-5-1998, of being heard, does not arise. Thus, we find no merits in any of the above contentions urged by the learned Counsel for the petitioners. All the above contentions urged have been considered by the Tribunal in the impugned orders passed. We do not find any <sup>justifiable</sup> ground to interfere with the impugned orders passed by the Tribunal. The learned Counsel for the 2nd respondent submitted that in pursuance of the decision taken by

the 2nd respondent fresh evaluation of all the answers in the answer scripts of all the series were effected and the revised marks list of all the candidates who had appeared in the examination was published in the Notification dated 8-6-1998 by publishing the Provisional Select List/marks list published on 2-5-1998. In view of the said submissions made, we do not find it necessary to give any direction in this regard as requested by the learned Counsel for the petitioners.

7. For the above reasons, the writ petitions are dismissed. No costs.

Sd/-  
JUDGE



Sd/-  
JUDGE

KVV